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August 18, 1966
NUMBER 5525.3

GC, DoD

Department of Defense Directive

SUBJECT Jurisdiction of Service Courts of Friendly Foreign Forces
in the United States

Refs: (a) Public Law 384, 78th Congress (22 USC 701-706
(1964)), "An Act to implement the jurisdiction
of service courts of friendly foreign forces
within the United States, and for other purposes"

(b) NATO Status of Forces Agreement (T.I.A.S. 2846)

I. PURPOSE AND APPLICABILITY

This Directive establishes Department of Defense policy and procedures under which the Military Departments will implement reference (a) (hereinafter referred to as "the Act").

II. DEFINITIONS

- A. Friendly Foreign Force means any military, naval, or air force of any friendly foreign state with respect to which the Act is made operative pursuant to section 6 thereof.
- B. Service Court means any military, naval, or air force court, court-martial, or similar tribunal of any friendly foreign force within the United States.

III. SCOPE

The provisions of this Directive govern the exercise of jurisdiction in the United States over offenses committed by members of friendly foreign forces.

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IV. POLICY

- A. Service Court Jurisdiction. A friendly foreign force has the right to exercise jurisdiction in the United States over offenses committed by its members which are punishable by its law but not by the law of the United States or by the law of any political subdivision thereof.
- B. Concurrent Jurisdiction. The United States, including political subdivisions thereof, and a friendly foreign force have concurrent jurisdiction over offenses cognizable under the laws of both.
 - 1. The act does not accord to a friendly foreign force the primary right to exercise its jurisdiction over matters subject to this concurrent jurisdiction; authorities of the United States and its political subdivisions have the primary right to exercise jurisdiction in any particular case unless an international agreement governing the status of the friendly foreign force in the United States (for example, reference (b)) provides otherwise.
 - 2. Pursuant to an applicable international agreement, or in the absence of such an agreement as a matter of comity, the authorities of a friendly foreign force may request a waiver of the primary right of the United States and its political subdivisions to exercise jurisdiction.
- C. Any trial by a service court of an alleged offense not solely against another member of the friendly foreign force will be open to the public unless security considerations require otherwise.

V. RESPONSIBILITIES

- A. The Secretaries of the Military Departments will:
 - 1. Each designate an agent to assist a friendly foreign force in the interpretation and use of the Act, who will -
 - a. establish appropriate channels and procedures for the receipt and forwarding of requests; and

- b. assist the friendly foreign forces in their contacts with authorities of the United States, including political subdivisions thereof, in matters arising under provisions of this Directive.
- 2. Authorize military police of their Departments to apprehend any member of a friendly foreign force having service courts of appropriate jurisdiction within the United States, when the commanding officer of that force or his designated representative specifically requests such apprehension. Such requests will include:
 - a. a full description of the person to be apprehended, and a statement that that person is a member of the friendly foreign force concerned, and as such is subject to the jurisdiction of its service court for the offense allegedly committed.
 - b. a description of the offense allegedly committed by the person to be apprehended.
 - c. the name, address, and telephone number of an officer of the friendly foreign force to be contacted if the person is apprehended.
 - d. citation of the statute, 22 U.S.C. 701-706, authorizing the confinement.
- B. Guidance shall be promptly sought through appropriate channels of the military department concerned whenever it is considered inadvisable to carry out the request for apprehension or the person to be apprehended is a U.S. national or ordinarily resident in the U.S.
- C. If the offense allegedly committed by the member whose apprehension is requested involves substantial local interest, apprehension will be coordinated with appropriate civilian authorities.
- D. Persons sentenced to imprisonment by a service court may be confined in such places of detention as are prescribed by the Military Departments or the Department of Justice.

1. Use of a DOD detention facility, including pretrial confinement, prior to execution of a sentence adjudged by a service court may be authorized only on receipt of a specific written request for such use from an officer authorized by a friendly foreign force to request apprehension, in accordance with paragraph A.2., above. If the detention period is to exceed forty-five (45) days, the authorization must be approved by the Secretary of the Military Department concerned.
2. Confinement in a Federal penal or correctional institution will be in conformity with Department of Justice regulations.

E. All detention or confinement will be at the sole expense of the friendly foreign force concerned.

VI. REPORTS

Each Military Department will report to the GC, DoD, all cases arising under provisions of this Directive and all detentions authorized pursuant to Section V.D.1 above.

VII. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Each Military Department will forward two (2) copies of its proposed implementing document to the GC, DoD for approval within sixty (60) days.

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Gene Vance

Deputy Secretary of Defense